



KEVIN T. KANE
CHIEF STATE'S ATTORNEY

State of Connecticut
Division of Criminal Justice

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August 1, 2012

Via Certified Mail – Return Receipt Requested

David Holzbach, Esq.



Dear Mr. Holzbach,

Pursuant to Article 13, Section 1(a), Section 2(a) and Section 3(a) of the Collective Bargaining Agreement between the Division of Criminal Justice and the Connecticut Association of Prosecutors, I hereby inform you that you are discharged from your position with the Division of Criminal Justice, effective at the close of business Friday, August 3, 2012.

As a result of an incident that occurred on April 27, 2012, in Courtroom 3 in the Danbury Superior Court, an internal investigation of your conduct was commenced by State's Attorney Stephen Sedensky. After carefully reviewing the report of that investigation and considering the information you provided, I have concluded that you have:

1. Repeatedly violated Practice Book § 1-10 concerning cameras in the courtroom;
2. Disobeyed directives to not use recording devices without permission;
3. Disobeyed a directive to not bring a specific recording device to work;
4. Repeatedly used recording devices without permission to clandestinely videotape and photograph women;
5. Collected and maintained in your office voluminous pictures of women, some pornographic in nature, while others depict women being bound and gagged or otherwise being subjected to degrading behavior; and
6. Viewed non-work related pornographic images during regular work hours on your work computer in violation of the Division and State policies on acceptable use of State computers and computer systems.

This misconduct is so serious that it warrants the termination of your employment.

My decision in this matter was made only after a thorough investigation and review of all of the relevant facts and circumstances, including your work record as a Senior Assistant State's Attorney. I have carefully considered all of the information you and your representatives have presented on your behalf. I have weighed, as well, your expression of remorse over your conduct in this matter. However, your behavior is completely intolerable and is of such gravity that termination of your employment is required.

Mr. Holzbach
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August 1, 2012

Upon your receipt of this letter, you are prohibited from entering any Division of Criminal Justice office pending appropriate arrangements for the surrender of your office key and identification card. Please contact Personnel Officer Susan Claus (860-258-5862) immediately to arrange for the retrieval of any of your personal effects from the Danbury State's Attorney's Office.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Kevin T. Kane", is written over a faint, circular official seal of the State of Connecticut.

KEVIN T. KANE
CHIEF STATE'S ATTORNEY

c: John J. Russotto, Esq., Deputy Chief State's Attorney
Stephen J. Sedensky, III, Esq., State's Attorney
John P. Doyle, Esq., President, Connecticut Association of Prosecutors
Christopher Godialis, Connecticut Association of Prosecutors
Susan Claus, Personnel Officer



Office of the State's Attorney
Judicial District of Danbury
146 White St.
Danbury, Connecticut 06810
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Memorandum

TO: Kevin T. Kane, Chief State's Attorney
C: John J. Russotto, Deputy Chief State's Attorney, Administration
FROM: Stephen J. Sedensky III, State's Attorney, Judicial District of Danbury
DATE: July 5, 2012
SUBJECT: Employee Discipline - David Holzbach, Senior Assistant State's Attorney

Below is the report of my investigation concerning Senior Assistant State's Attorney David Holzbach's continued clandestine video recording and photographing of adult females in and around the courthouse, as well as his maintaining in his office, on work time, collections of pictures of women, including women in bondage.

Attorney Holzbach has on work time

1. Repeatedly violated Practice Book Sec. 1-10 concerning cameras in the courtroom;
2. Disobeyed directives to not use recording devices without permission;
3. Disobeyed a directive to not bring a specific recording device to work;
4. Repeatedly used recording devices without permission to clandestinely videotape and photograph women; and
5. Collected and maintained in his office voluminous pictures of women, some being bound and gagged in a manner which if done in real life would be serious criminal behavior.

After you have had a chance to review this investigation report and attached materials, I would like to speak with you and DCSA John Russotto regarding appropriate discipline.

This investigation was initiated after it was learned that Attorney Holzbach was again surreptitiously using an electronic device to take video recordings of females in the courthouse without their knowledge or permission. The device was a Brookstone "Video Spy Pen" which is a large pen with a video camera concealed in it. Attorney Holzbach, on two prior occasions, was admonished to cease this type of behavior. On Friday, April 27, 2012, Sup. Asst. State's Attorney Warren Murray seized the pen that Holzbach was using in Courtroom 3 to film a female member of the defense bar. Later that day Holzbach was placed on Administrative Leave, which he is currently on.

Attached to the report provided to Chief State's Attorney Kevin Kane are:

- A. Manual for Video Spy pen used to record females in courthouse and on grounds;
- B. Photograph of box for Brookstone Video Spy Pen recovered from Holzbach's office;

Employee Discipline – David Holzbach - cont

- C. Photograph of hollow box used for hiding camera recovered from Holzbach's office;
- D. Copy of cover of camera manual recovered from Holzbach's office;
- E. Photographs of camera tripods recovered from Holzbach's office;
- F. Selected copies of pictures of women recovered from Holzbach's office from the four banker's boxes full of material;
- G. CD with June 5, 2012 interview of Holzbach and video taken by Holzbach in court on April 27, 2012;
- H. Prior reprimand letter from 2006.

Interviewed in the course of this investigation were:

Donald Brown, Inspector
Mary Comstock, Investigator
Patricia Froehlich, State's Attorney, Judicial District of Windham
Sharmese Hodge, Assistant State's Attorney
David Holzbach, Senior Assistant State's Attorney
Kathryn Jones, Domestic Violence Victim Advocate
Deborah Mabbett, Senior Assistant State's Attorney
Sean McGuinness, Deputy Assistant State's Attorney
Warren Murray, Supervisor Assistant State's Attorney
Harry Schueschner, Chief Judicial Marshal
Jennifer Tunnard, Attorney
Colleen Zingaro, Assistant State's Attorney

Results of Investigation

In the course of the investigation, Attorney Holzbach admitted that he has engaged in the following conduct for the past several months. He has been regularly video taping various female courthouse staff members and attorneys in courtrooms of the Superior Court, State's Attorney's Office and from his car in the courthouse parking lot, with an acknowledged focus on women's legs. This was done without their knowledge and consent. He arrives at work early and spends time going to and from his office to the car and back to set up the video camera. He watches the video in his office. He maintains at work a collection of pictures of women, real and graphic comic book style, that are categorized and boxed. He currently has four banker's boxes full of these pictures. Some of these pictures are of women bound, gagged and in distress.

Female members of the State's Attorney's Office have seen the bondage pictures when Holzbach has left a file open on his desk or in someone else's office. Samples of these were taken and copied and are attached to this report. Also taken were two small camera tripods, a manual for a small camera and a hollow box with a one-way mirror that can house a camera so that photos/video can be taken without a person knowing it.

After Christmas, 2011, a fellow employee who was aware of the videotaping confronted Holzbach. He was told to stop by the employee or he could lose his job. Holzbach said he indicated to that employee that he would stop. The employee said that Holzbach said it was just a USB drive.

Based on statements of those interviewed, Holzbach was also taking photographs of women as they came and went from the courthouse.

Prior Incidents

In 1992, Holzbach was reprimanded by State's Attorney Flanagan for video taping [REDACTED] and two other members of the courthouse staff without their knowledge in hallways in the office and courthouse and in the parking lot as they walked to and from the building. One incident involved Holzbach lying on the floor of his office and filming a courthouse employee through his office window as she walked the hall in the State's Attorney's Office. Holzbach's office was moved and State's Attorney Flanagan issued a policy memo prohibiting anyone from using a camera or recording device without permission.

In 2006, Holzbach was given a written reprimand by State's Attorney Flanagan for clandestinely photographing a female intern in the State's Attorney's Office.

In 2010 or 2011, Holzbach was told by this State's Attorney to stop bringing a Nintendo DS game that had a camera in it to work. Holzbach disobeyed that directive and continued to bring the DS to work. I had been told he was taking pictures of people coming into the building with the DS. I had asked Holzbach at the time if the DS had a camera and he told me no. I told him not to bring the DS into work. In his June 5th interview during this investigation, Holzbach recalled being told not to bring the DS to work but did not recall me asking him if it had a camera. Though Holzbach denied using the DS to take pictures of people as they came into work, other employees indicate seeing him use it in a fashion indicating he was photographing people without their knowledge.

Summary Holzbach's June 5, 2012 Statement and Explanation for Conduct

Attorney Holzbach was interviewed for a little less than an hour on June 5, 2012 in the office of Attorney Dennis McDonough. Present, in addition to Holzbach and myself, were union representatives Senior Assistant State's Attorney Jack Doyle and Senior Assistant State's Attorney Christopher Godalis, as well as Supervisory Assistant State's Attorney Warren Murray. Prior to the interview starting, all were informed that the interview was to be recorded and the tape recorder was clearly visible on the desk in the office. A copy of the recorded interview is provided with this report to Attorney Kane.

Holzbach acknowledged using the "Video Spy Pen" to record women in the courtroom, the Judicial District's offices and on the courthouse grounds, though his list of victims was shorter than those believed to have been recorded by others. He said that after watching the videos, he deletes them and no others exist. Shots would be mostly leg and ankle shots if we looked at deleted videos on the pen. He said that he has only taken three pictures with the DS, which he acknowledged I told him to leave at home, though he thought it was because of the games. He did not recall my asking him if the DS had a camera.

For the 1992 videotaping, he was verbally counseled by State's Attorney Flanagan [REDACTED] After 1992, he said he stopped for 15 years. [REDACTED] After that reprimand for photographing [REDACTED] he kept the work collection of pictures. He does not see any connection between what he was reprimanded for and the collection.

Employee Discipline – David Holzbach - cont

He started videotaping again in December 2011. He said he could never get the box with the one-way mirror to work and he currently has no pictures or videos of anyone.

[REDACTED] In response to my questions regarding time spend at work maintaining the four banker's boxes collection of pictures in his office, Holzbach indicated the work collection has been building for years. In response to my question about how much time he would spend cutting pictures up, he said he uses about one-half hour of time cutting pictures up, never longer. Related to this, one employee described hearing the sound of clipping scissors often in Holzbach's office during the day.

Holzbach said that he never used the pen in the restroom, lockup or jury area. All of this behavior takes place weekly. He said he goes out to car so often in order to get stuff, but has also used the pen outside for recording people coming in the back entrance.

Effects of Holzbach's Conduct

With one exception, the women spoken with are disturbed by Holzbach's conduct, with more than one consciously governing her office dress so as not to attract his attention. One of the non-State's Attorney's Office victims voiced a concern that people cannot feel confident that Holzbach will behave appropriately toward female victims and witnesses if he is seeing them as objects. She questions whether Holzbach's judgment can be trusted for female staff, defendants, attorneys, victims and witnesses. The prosecutor's position is one of trust and people rely on their integrity. Secret cameras breach that trust and undermine integrity. Holzbach's conduct has created an incredibly difficult and possibly hostile work environment; even if specific victims were unaware they were being filmed or photographed. His photographing women in the courtroom and demeaning them in that forum is particularly intimidating and especially egregious given his position as an officer of the court.



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Senior Assistant State's
Attorney
COLEEN ZINGARO
Assistant State's Attorney
SHARMESE HODGE
Assistant State's Attorney
SEAN MCGUINNESS
Deputy Assistant State's
Attorney

May 1, 2012

Stephen Sedensky, III
Danbury Office of the State's Attorney
Danbury, CT 06810

Chronology of Events Concerning the Camera Pen

Dear Steve,

Below is a chronology regarding the issue surrounding the recent possession of a video recording device by David Holzbach:

April 17, 2012

Approximately 11:30 a.m. I was discussing with [REDACTED] in my office a case that was on the daily docket involving a modification of probation for a defendant sentenced by Judge Carroll wherein Judge Carroll had restricted the probationer's internet access. Dave Holzbach was in court that morning and was the first prosecutor to speak with the defense attorney who was the proponent of the motion to expand the probationer's internet access. Dave had indicated to the attorney that [REDACTED] would call the file since [REDACTED] was doing the regular docket.

[REDACTED] remarked that [REDACTED] believes that Dave Holzbach has a pen sold by Sharper Image which is capable of taking videos and that she has seen this pen in court on a number of occasions pointed at compromising angles toward females who are in the courtroom. [REDACTED] informed me that the pen is located in a spiral notebook when in court and that [REDACTED] has also seen the pen in a spiral notebook placed in the office mailbox area pointing into [REDACTED] office while [REDACTED] was in [REDACTED] office. [REDACTED] also showed me a printout of the pen and its features.

This day was a Tuesday and I was preparing the morning pre-trials for Courtroom 3 for Wednesday. I spoke with Don Brown about the issue because of his supervisory experience. I called you at about 3:30 p.m. because you were on vacation. I left my home and office number and you called me at home in the early evening. I did

some quick research. We discussed that it would provide more compelling proof if the device could be confiscated while being used in the courtroom. I did not see him using the device this day but felt that he should be asked about its usage in the near future if the device was not secured. I was aware that a supervisor has a duty to act in the event he becomes aware of possible sexual harassment at the workplace.

April 18, 2012

I informed [REDACTED] that I discussed the issue with you and that I was required to do so. I asked [REDACTED] to let me know if [REDACTED] sees the pen being used.

April 19, 2012

Dave Holzbach had the family docket on this date. I checked in court for the device at 11:00 a.m. and did not see the device.

April 21, 2012

Dave was assigned the regular docket on this date. I was assigned the family docket. I did not observe the pen in court.

April 25, 2012

On this date I was making arrangements with Chief Judicial Marshal, Harry Schueschner, for Pat Alston to have a room to interview individuals [REDACTED]. [REDACTED] Chief Judicial Marshal, Harry Schueschner, raised the subject of the pen in conversation. He said that he has seen the pen. I mentioned to him to let me know if he sees the pen and I will confiscate it.

April 26, 2012

I went to the arguments at the Appellate Court for State v. Morquecho. When I returned at 1:00 p.m., [REDACTED] said that Dave was using the pen in court and was pointing it towards [REDACTED]. [REDACTED] said that Harry Schueschner was aware of the pen use. I called you at Finding Words at 1:25 p.m. and left a voicemail to keep you informed. My intention was to give it 2-3 days to try to get the pen. I then spoke with you directly at 1:35 p.m. and we discussed a time limit of early next week to try to get the pen. If the pen could not be obtained, David would have to be confronted. I spoke with Harry Schueschner at 1:45 p.m. He confirmed that he saw the pen again and that he reported this fact to his supervisors. I checked Dave's office from the outside, but saw no indication of a video pen. I sent you an email on this date indicating that it was my intention to assign Dave the regular docket on Monday, April 30 and the family docket on Tuesday, May 1 in order to optimize the chances of recovering the pen.

April 27, 2012

Dave was assigned the supervised pre-trial docket for 9:30 a.m. [REDACTED] was involved in her jury trial. I went to the supervised pre-trial court to call 2 jury cases for [REDACTED]. Court was not in session. As I entered the court I walked towards Dave. I saw what I believed to be a video pen in a spiral notebook on the prosecutor's table. There were docket sheets on top of the notebook which Dave quickly moved over the video pen as he became aware I was approaching the table. I feigned a lack of awareness and sat in the chairs behind the table. Judge Blawie entered, court convened and the process of calling the docket began. Dave was using a second pen to write markings for the docket. I saw Dave turn the pad and the papers toward an area where [REDACTED] was standing against the rail on the defense's side of the courtroom. [REDACTED] then entered the courtroom and leaned against the brick wall in the center of the room on the defense side of the courtroom. [REDACTED] was the last lawyer in line. Dave then pointed the pad and pen in the direction of [REDACTED]. It seemed that [REDACTED] was unaware of what was happening. I moved behind Dave and was out of his peripheral vision. I walked behind him and quickly confiscated the pen while the docket was being called. I examined the pen in the hallway behind court room 3. It had a blue light on. I clicked a button on the top of the pen and the light went off. I told Mechele Mack that I was leaving the office for a while and put the pen in a secure place. I let Harry Schueschner know that I had confiscated the pen. I also informed you. You said to hold on to the pen and that you would speak to John Russotto. At 1:30 p.m., per your instruction, I let Dave know that he was being placed on paid administrative leave for the rest of the afternoon and for Monday, April 30, 2012. I have not attempted to examine the contents of the video pen.

Court ended late which is why David came down at 1:30 p.m. He appeared highly remorseful [REDACTED]

[REDACTED] I would note that [REDACTED] and [REDACTED] were wearing pants on this date.

April 30, 2012

I discussed the matter with you and have prepared this chronology at your request.

Warren Murray
Supervisory Assistant State's Attorney
May, 1, 2012

Russotto, John

From: Kewer, Maria <Maria.Kewer@jud.ct.gov>
Sent: Monday, April 30, 2012 7:35 AM
To: Russotto, John
Subject: RE: Complaint

Hi John:

You can talk to them directly. If you have a problem with anyone, let me know and I'll see what I can do.

Maria

From: Russotto, John [mailto:John.Russotto@ct.gov]
Sent: Sunday, April 29, 2012 2:32 PM
To: Kewer, Maria
Subject: RE: Complaint

Thanks Maria, we will take it from here. As a part of our administrative investigation we may need to talk to some your employees. Should I go through you or can we talk with the employees directly? Thanks.

John J. Russotto

Deputy Chief State's Attorney
Office of the Chief State's Attorney
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From: Kewer, Maria [mailto:Maria.Kewer@jud.ct.gov]
Sent: Friday, April 27, 2012 6:40 AM
To: Russotto, John
Subject: Complaint

Hi John:

Thanks for returning my call. Our Chief Judicial Marshal in Danbury, Harry Schueschner, was confronted by [REDACTED] [REDACTED] informed Chief Schueschner that Assistant State's Attorney David Holzbach is video recording women with a video recording pen. [REDACTED] asked the Chief to take the pen away from Holzbach. Schueschner has not take any action.

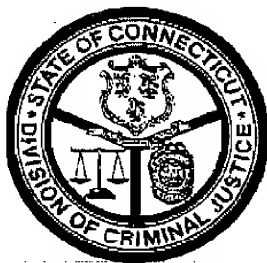
Schueschner also mentioned that Holzbach goes out to his car at lunch time and appears to be recording women on a different device from his car. I am not clear if [REDACTED] brought that information to Schueschner's attention of if he has witnessed this behavior.

Schueschner said that [REDACTED] was very concerned and upset. I believe he said that [REDACTED] said [REDACTED] informed someone in your agency but that no action was taken so that is why [REDACTED] went to Schueschner.

Chief Schueschner informed his Director, O'Donovan Murphy who referred him to me, so I assume they do not feel that this is a security issue at this time.

Please feel free to contact me if you need any additional information. My direct line to my office is [REDACTED] and my cell phone is [REDACTED]

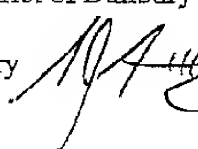
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Memorandum

TO: The Honorable Susan Reynolds, Administrative Judge, Judicial District of Danbury

FROM: Stephen J. Sedensky III, State's Attorney, Judicial District of Danbury 

DATE: May 3, 2012

SUBJECT: Violation of P.B. Sec. 1-10 - Possession of Electronic Devices in Court Facilities
Senior Assistant State's Attorney David Holzbach

On the afternoon of April 27, 2012, Senior Assistant State's Attorney David Holzbach was placed on administrative leave. He is to continue on this leave pending an administrative investigation into a report that he engaged in certain inappropriate conduct in the course of his employment at the Danbury Judicial District courthouse. His card to access the building has been deactivated.

Specifically, the report is that he secretly recorded and/or video taped members of the defense bar and/or public while in court on April 27, 2012. This would be a violation of Practice Book Section 1-10 which prohibits the use of electronic devices in a courtroom unless approved.


I will keep Your Honor apprised of the situation and the investigation.



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Memorandum

TO: The Honorable Susan Reynolds, Administrative Judge, Judicial District of Danbury

FROM: Stephen J. Sedensky III, State's Attorney, Judicial District of Danbury 

DATE: June 12, 2012

SUBJECT: Violation of P.B. Sec. 1-10 - Possession of Electronic Devices in Court Facilities
Senior Assistant State's Attorney David Holzbach

On the afternoon of April 27, 2012, Senior Assistant State's Attorney David Holzbach was placed on administrative leave. In a prior memo, I indicated to your Honor that he was to continue on this leave pending an administrative investigation into a report that he engaged in certain inappropriate conduct in the course of his employment at the Danbury Judicial District courthouse. His card to access the building has been deactivated.

The investigation is finished. There is no indication that any criminal statutes have been violated. The investigation disclosed that Attorney Holzbach on April 27th and on prior occasions, starting at around January 2012, while in a courtroom open to the public and without any official reason to do so, surreptitiously used an electronic device to take video recordings of specific individuals without their knowledge or permission. The device was a video camera concealed in a pen.

At this point Attorney Holzbach remains on administrative leave pending the outcome of the administrative process within the Division of Criminal Justice.